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"PUBLIC NOTICE – ALL INTERESTED PARTIES"

FMCSA'S

PRELIMINARY ENVIRONMENTAL

ASSESSMENT

FMCSA-2004-18940-10

FOR

Electronic On-Board Recorders

for Hours-of-Service Compliance

FMCSA's preliminary environmental assessment (PEA) was prepared in accordance with FMCSA's NEPA Implementing Procedures and Policy for Considering Environmental Impacts (FMCSA Order 5610.1) and complies with the National Environmental Policy Act of 1969 (P.L. 91-190) and the Council of Environmental Quality Regulations dated 28 November 1978 (40 CFR parts 1500-1508).

This PEA briefly examines the potential environmental impacts of an advance notice of proposed rulemaking concerning the use of electronic on-board recorders to document compliance with the hours-of-service regulations. It also asks a number of questions and requests comments on the number and types of on-board recorders currently in use, the cost of those recorders, and other information that will assist in any later, more comprehensive environmental evaluation.

8/30/04	[signature]	Economist
Date	Preparer	Title/Position

9/1/04	[signature]	Director, MC-PR
Date	Environmental Reviewer	Title/Position

In reaching my decision/recommendation on the FMCSA's proposed action, I have considered the information contained in this EA on the potential for environmental impacts.

9/1/04	[signature]	Associate Administrator for Policy & Program Development
Date	Responsible Official	Title/Position

PUBLIC NOTICE – ALL INTERESTED PARTIES

"Electronic On-Board Recorders for Hours-of-Service Compliance"
Advance Notice of Proposed Rulemaking

Preliminary Environmental Assessment

Federal Motor Carrier Safety Administration

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This Preliminary Environmental Assessment (PEA) evaluates the potential impacts of an advance notice of proposed rulemaking concerning potential amendments to regulations on the use of on-board recording devices to document compliance with the Federal hours-of-service rules. These regulations are found in 49 CFR Part 395. The PEA was prepared in accordance with applicable environmental laws which ensure that environmental information is available to decision makers, regulatory agencies, and the public when Federal action is being considered. It solicits information about issues concerning the environmental consequences of on-board recorder use, and makes a preliminary assessment that use of these devices would have no significant adverse impact on the human environment and would in fact be likely to improve motor carrier and highway safety.

September 1, 2004

PRELIMINARY ENVIRONMENAL ASSESSMENT: PARTS & ACCESSORIES NECESSARY FOR SAFE OPERATION; ELECTRONIC ON-BOARD RECORDERS FOR HOURS-OF-SERVICE COMPLIANCE

Advance Notice of Proposed Rulemaking

I. Background

The National Environmental Policy Act of 1969 (NEPA), (42 U.S.C. 4321 *et seq.*, as amended) requires Federal agencies to consider the consequences of, and prepare a detailed statement on, all major Federal actions significantly affecting the quality of the human environment.

FMCSA is considering proposing amendments to or revisions of its regulations concerning the use of electronic on-board recorders (EOBRs) to document compliance with the hours-of-service (HOS) rules. The potential amendments and/or revisions that might be considered would be in the form of updated performance-based specifications for these devices. The agency is seeking information concerning issues that should be considered in the development of improved performance specifications for these devices, to promote increased use of the technology and ensure the requirements are appropriate when applied to emerging technologies. The purpose of developing a performance-based specification would be to maintain data integrity throughout all recording, transmission, storage, retrieval, and display processes. The agency's purpose in issuing an Advance Notice of Proposed Rulemaking (ANPRM), which this preliminary environmental analysis (PEA) accompanies, is to assess methods to improve HOS compliance and oversight through the use of automated (including electronic) duty status records.

We prepared this preliminary environmental analysis to make an early assessment of the potential effects of such regulations on the environment, and to request information and opinions from commenters about various EOBR issues. If the agency determines it is appropriate to propose regulations, an Environmental Assessment (EA) would be prepared during the course of development of the proposed regulations. The EA would be undertaken to determine the environmental impacts of such a regulation on commercial motor vehicles (CMVs) operated in interstate commerce, and whether a more comprehensive environmental impact statement (EIS) may be required. If, on the basis of an EA, the agency determines that a full EIS is not required, we may make a finding of no significant impact (FONSI) briefly explaining why an action will not have a significant effect. On the other hand, if after completion of the EA the agency determines that the action will have a significant impact on the environment, an EIS will be prepared. FMCSA also could determine to withdraw the proposal on the basis of anticipated environmental impacts.

The agency does not have a preferred alternative. Rather, the accompanying ANPRM asks a number of questions about what a proposal should include and exclude, such as

what technical specifications should be required and what categories of motor carriers should be covered. None of the potential regulatory changes under consideration would mandate the use of EOBRs. Rather, under all the alternatives the use of EOBRs would continue to be at the motor carrier's option, as has been the case since 1988. Further, the potential changes under consideration would not require motor carriers to upgrade or replace the automatic on-board recorders (AOBRDs) that the Federal Motor Carrier Safety Regulations currently allow. The devices would not affect the manner in which the engines or emissions systems of CMVs operate, nor would they change where motor vehicles are operated or the number of miles they are driven.

Our preliminary assessment of the various alternatives under consideration is that they would not, in and of themselves, affect motor carrier operations that are in compliance with the hours-of-service regulations. However, the use of an EOBR could cause a motor carrier or driver to change its operations, because deviations from the HOS regulations would be more readily discovered if the HOS records were to be recorded via an EOBR. By lessening the number of fatigued CMV drivers, use of EOBRs would likely improve highway safety. FMCSA's preliminary assessment is that the use of EOBRs is unlikely to significantly affect any other environmental areas, including air quality, land use, or water quality.

This PEA solicits information about various issues concerning the environmental consequences of EOBR use. Because FMCSA does not have a preferred option or any alternatives, this PEA does not include an evaluation of the possible environmental consequences of increased EOBR use. That evaluation will be prepared if and when the agency decides to proceed with this rulemaking, and it will include an evaluation of any options under consideration.

II. Purpose and Need for Proposed Action

The Federal hours-of-service regulations (49 CFR Part 395) are intended to ensure that vehicle operators do not drive for long periods without opportunities to obtain restorative sleep. The regulations prohibit CMV drivers from driving or being directed to drive more than a specified amount of time between mandatory off-duty periods.

The regulations also prohibit driving after a specific amount of cumulative on-duty time on both a daily and multiday basis. On-duty time is time spent driving as well as time spent performing other duties at a motor carrier's direction, such as loading a truck or waiting in line to unload. Motor carriers and drivers must keep records to track their on-duty and off-duty time. FMCSA uses these records to carry out safety oversight activities, as do State agencies enforcing compatible State laws.

While the methods of recording and documenting hours of service have changed several times over the years, the most common method is the Driver's Record of Duty Status (RODS), which includes the familiar graph-grid recording format. Drivers enter their work status on the RODS manually, in 15-minute increments.

For the last 2 decades, the U.S. Department of Transportation has issued guidance, interpretations, and proposed rulemakings about automated methods of recording drivers' duty status records. In 1985, the Federal Highway Administration (FHWA), the predecessor agency to FMCSA, granted a waiver to Frito-Lay, Inc. to allow it to use on-board computers to record drivers' time. Waivers were subsequently issued to nine other motor carriers. In 1998, FHWA published a final rule allowing motor carriers to use AOBRDs in place of handwritten RODS. In addition to including performance, maintenance and other specifications, the rule included a provision allowing the agency to force a motor carrier to revert to the use of paper RODS under certain circumstances.

In May 2000, FMCSA's notice of proposed rulemaking on HOS included a provision requiring EOBRs on CMVs used in long-haul and regional operations. We proposed requiring EOBRs for these two industry segments because they were most susceptible to fatigue. The final HOS rule, published in April 2003, did not include the EOBR requirement. The requirement was removed because of a lack of safety and economic data to support such a significant mandate. However, the final rule did state that FMCSA would continue to explore the use of EOBRs, including possible future research issues and incentives.

The National Transportation Safety Board (NTSB) has also recommended the Department require motor carriers to install EOBRs in their CMVs. NTSB Safety Recommendation H-90-28, which the Department received in February 1990, states that the Department should "Require automatic/tamper-proof on-board recording devices such as tachographs or computerized logs to identify commercial truck drivers who exceed hours-of-service regulations." NTSB reiterated this safety recommendation on January 18, 1995.

On August 3, 1995, the Insurance Institute for Highway Safety, Advocates for Highway and Auto Safety, and several other highway safety and advocacy organizations petitioned FHWA to require on-board recorders in CMVs. The petitioners believed that mandated use of these devices would improve hours-of-service compliance, thereby reducing the number of fatigued drivers and fatigue-related crashes.

FMCSA is considering rulemaking action on EOBRs because of the petition, the NTSB recommendation, and our commitment in the HOS final rule to examine this issue. The purpose of any eventual rule would be to allow for easier detection of violators of the HOS rules, thereby allowing enforcement officials to more easily remove fatigued drivers from the road and potentially lessening the number of fatigue-related crashes.

III. Questions Concerning Options

As discussed above, FMCSA does not presently have a preferred alternative. The agency is issuing an ANPRM and seeks to gather information to use in developing a preferred alternative. Therefore, instead of conducting an environmental analysis of various hypothetical options, we are asking for information about a number of issues relevant to a future rulemaking.

We request that any information be as specific as possible. It also would be helpful if commenters could provide sources for any assertions. For example, rather than saying that a given EOBR has a 10-year useful life, commenters could say they have used 100 of a given-model EOBR since 1990, and that their experience has indicated the EOBRs typically need to be replaced after 10 years.

Number and Cost of EOBRs

How many EOBR models are currently available?

How many models are in development and would likely be available in the near term?

For each model, what data does the EOBR record/calculate?

How much does each model cost when new? Are there any discounts for large purchases?

How much does each model cost if installed as an aftermarket component?

Maintenance and Repair of EOBRs

What kind of maintenance and repair are needed on these systems?

How often do they need to be checked? How often are they repaired?

What is the average useful life of an EOBR?

Manufacture, Disposal, and Materials

When EOBRs are repaired, is any part of the recorder discarded?

What materials are used in the manufacturing of EOBRs?

What materials are contained in the EOBRs?

Are any hazardous materials (HMs) in EOBRs? If so, which ones and how much?

If EOBRs contain HMs, how are they disposed of?

Affected Environment

Would an EOBR affect a CMV's physical operation?

Would an EOBR affect how many miles, what time, or on what roadways (or types of roadways) a CMV is driven?

What would be the safety impact of EOBR use?

Enforcement

Would EOBR use change FMCSA enforcement?

Should EOBR use change FMCSA enforcement?

Do CMVs typically idle during the portion of the roadside inspection when inspectors are reviewing the driver's RODS?

Would use of an EOBR change the amount of time required to review drivers' RODS?

Commenters also are invited to submit remarks on any other aspect of this ANPRM they believe might have an environmental impact. Again, the more specific and detailed the comments, the more useful they will be to the agency in developing a proposed rule.